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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,517	10/02/2003	Michio Nagai	03598/LH	1967

1933 7590 01/21/2009
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EXAMINER	
ALBERTALLI, BRIAN LOUIS	

ART UNIT	PAPER NUMBER
2626	

MAIL DATE	DELIVERY MODE
01/21/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	**Application No.** 10/678,517	**Applicant(s)** NAGAI, MICHIO
	Examiner BRIAN L. ALBERTALLI	**Art Unit** 2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2008*.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-8* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a)☐ All b)☐ Some * c)☐ None of:
1.☐ Certified copies of the priority documents have been received.
2.☐ Certified copies of the priority documents have been received in Application No. _____.
3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 5-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Balabanovic et al. (U.S. Patent 6,976,229).

In regard to claim 1, Balabanovic et al. disclose an information processing device capable of processing audio data linked with still image data (Fig. 7, system 700, column 12, line 50 to column 13, line 7), the apparatus comprising:

display means for displaying, in a single window on a display screen (video display 710, column 12, line 65 to column 13, line 7; see also Figs. 1 and 2 for screenshots):

(i) a playback-time information display area to display playback-time positions of items of still image data linked with selected audio data (Fig. 2, vertical line 255 scrolls along images in the bottom track, column 6, lines 45-67; the bottom track represents a story being authored by a user, where the user selects an order of still images and associates audio with the images, column 5, lines 36-39 and column 6, lines 1-7)

(ii) a first image display area for displaying all of the items of still image data linked with the selected audio data in a playback order of the items of still image data (bottom track 115 additionally displays thumbnails of images added by the user in the order they will be played back, column 5, lines 36-39 and column 7, lines 50-55), and

(iii) a second image display area for displaying still image data which is not linked with any audio data (top track 105 displays all images stored on the system, including those not included in the story track 115, column 4, lines 58-67);

insertion means for selecting a desired item of still image data from among the still image data which is not linked with any audio data, displayed in the second image display area, and inserting the selected item of still image data in one of the first image display area and the playback-time information display area (a user selects an image they would like to add to the story from the top track 105 and the image is inserted in the working set track 115, column 5, line 63 to column 6, line 7); and

link means for linking the selected item of still image data to a playback-time position of the selected audio data, the playback-time position corresponding to a position at which the selected item of still image data is inserted in said one of the first image display area and the playback-time information display area in which the selected item of still image data is inserted (in the authoring mode, when a user selects a new thumbnail image, the image is inserted in the authoring track at the position the image will be played back and associated with an audio clip being recorded, column 8, lines 41-66; see also column 3, line 65 to column 4, line 4, a narration audio track is linked to a sequence of images).

In regard to claim 5, Balabanovic et al. disclose a computer readable storage medium having an information processing program stored thereon that is executable by a computer to process audio data linked with still image data (column 2, line 58 to column 3, line 3), wherein the program controls the computer to execute functions comprising:

displaying, in a single window on a display screen (video display 710, column 12, line 65 to column 13, line 7; see also Figs. 1 and 2 for screenshots):

(i) a playback-time information display area to display playback-time positions of items of still image data linked with selected audio data (Fig. 2, vertical line 255 scrolls along images in the bottom track, column 6, lines 45-67; the bottom track represents a story being authored by a user, where the user selects an order of still images and associates audio with the images, column 5, lines 36-39 and column 6, lines 1-7)

(ii) a first image display area for displaying all of the items of still image data linked with the selected audio data in a playback order of the items of still image data (bottom track 115 additionally displays thumbnails of images added by the user in the order they will be played back, column 5, lines 36-39 and column 7, lines 50-55), and

(iii) a second image display area for displaying still image data which is not linked with any audio data (top track 105 displays all images stored on the system, including those not included in the story track 115, column 4, lines 58-67);

detecting that an item of still image data is selected from among the still image data which is not linked with any audio data, displayed in the second image display area (a user selects an image they would like to add to the story from the top track 105, column 5, line 63 to column 6, line 7);

detecting an instruction to insert the selected item of still image data in one of the first image display area and the playback-time information display area (the image is inserted in the working set track 115, column 5, line 63 to column 6, line 7);

detecting a position at which the selected item of still image data is inserted in said one of the first image display area and the playback-time information display area in which the selected item of still image data is inserted (in the authoring mode, when a user selects a new thumbnail image, the image is inserted in the authoring track at the position the image will be played back, column 8, lines 41-66);

calculating a play-back time position of the selected audio data that corresponds to the detected position (the recording continues for the audio clip associated with the newly added thumbnail image, thus, the timing of the audio data associated with the thumbnail must be calculated, column 8, lines 41-66); and

linking the selected item of still image data to the calculated playback-time position of the selected audio data (the thumbnail image is associated with an audio clip being recorded, column 8, lines 41-66; see also column 3, line 65 to column 4, line 4, a narration audio track is linked to a sequence of images).

In regard to claim 6, Balabanovic et al. disclose said display means displays thumbnail images of the items of still image data which are linked with the selected audio data in the first image display area (see Fig. 1, a working set of thumbnail images associated with audio data are displayed in bottom track 115, column 5, lines 36-43 and column 6, lines 1-7).

In regard to claim 7, Balabanovic et al. disclose said display means displays the thumbnail images of the items of still image data in the playback order from the top (the phrase “from the top” has been interpreted herein as *from the beginning of the playback order* as is commonly used in reference to music and movies; Balabanovic et al. disclose thumbnails of images added by the user in the order they will be played back starting from the first, leftmost image, column 5, lines 36-39 and column 7, lines 50-55).

In regard to claim 8, Balabanovic et al. disclose said display means displays the thumbnail images of the items of still image data which are not linked with any audio data in the second image display area (Fig. 1, top track 105 displays thumbnails of all images stored on the system, including those not included in the story track 115, column 4, lines 58-67).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balabanovic et al., in view of Kobayashi et al. (U.S. Patent 6,938,215).

In regard to claim 2, Balabanovic et al. do not disclose how the image and audio data are linked.

Kobayashi et al. disclose a device for presenting linked still image and audio files wherein link means rewrites a file header of the selected audio data upon linking (image files and audio files are linked by creating an index in the image file header and audio file header that associate the still image and audio file, column 3, lines 42-54).

Thus, the prior art provides a "base" device differing from the claimed invention by the "improvement" of linking the still image and audio files by rewriting the file header area of the audio data. Kobayashi et al. disclose a comparable system that associates still images and audio files wherein the system links a still image file and an audio file by rewriting the file header area of the audio data. One of ordinary skill in the art at the time of invention could have applied the file header rewriting technique of Kobayashi et al. in the same way to the system of Balabanovic et al. to link the still image and audio files together. Furthermore, one of ordinary skill in the art at the time of invention would have recognized that rewriting the file header area of the selected audio data upon linking would have predictably resulted in the still image file and audio file being associated with each other.

In regard to claim 3, Balabanovic et al. do not disclose how the image and audio data are linked.

Kobayashi et al. disclose a device for presenting linked still image and audio files wherein link means rewrites a file header of the selected item of still image data upon linking (image files and audio files are linked by creating an index in the image file header and audio file header that associate the still image and audio file, column 3, lines 42-54).

Thus, the prior art provides a "base" device differing from the claimed invention by the "improvement" of linking the still image and audio files by rewriting the file header area of the still image data. Kobayashi et al. disclose a comparable system that associates still images and audio files wherein the system links a still image file and an audio file by rewriting the file header area of the still image data. One of ordinary skill in the art at the time of invention could have applied the file header rewriting technique of Kobayashi et al. in the same way to the system of Balabanovic et al. to link the still image and audio files together. Furthermore, one of ordinary skill in the art at the time of invention would have recognized that rewriting the file header area of the selected still image data upon linking would have predictably resulted in the still image file and audio file being associated with each other.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Balabanovic et al., in view of Masuda et al. (U.S. Patent 7,103,842).

In regard to claim 4, Balabanovic et al. do not disclose the link means moves the selected item of still image data to a folder in which the selected audio data is stored, upon linking.

Masuda et al. disclose a system that links still images and audio files wherein a link means moves the selected item of still image data to a folder in which the selected audio data is stored, upon linking (a folder is selected where all of the picture data and audio data that are temporally linked with be stored, column 3, lines 53-64).

It would have been obvious to one of ordinary skill in the art at the time of invention to move the still image data to the folder where the selected audio data was stored, because this would ensure the linked audio and still image files were located in the same location in storage, making them easier to find by a user and/or by searching.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Matsui et al. (U.S. Patent 6,674,955) disclose a video editor that links video clips to and audio playback time display. Torres et al. (U.S. Patent 6,378,075) disclose a system for creating a slideshow of images linked with an audio file. Kellock et al. (U.S. Patent Application Publication 2004/0027369) disclose a system wherein video, still images and animation are “slaved” to a master audio track.

Nozaki (U.S. Patent Application Publication 2002/0054102) disclose a system for linking audio and still images.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN L. ALBERTALLI whose telephone number is (571)272-7616. The examiner can normally be reached on Monday-Thursday, 8 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R Hudspeth/
Supervisory Patent Examiner, Art Unit 2626

BLA 1/16/09